

**Introduced by Committee on Health (Senators Ortiz (Chair),
Aanestad, Alquist, Chesbro, Cox, Figueroa, Kuehl, Maldonado,
and Runner)**

March 27, 2006

An act to amend Sections 109275, 109277, and 109280 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1851, as introduced, Committee on Health. Cancer: informed consent.

Existing law requires physicians and surgeons to inform patients being treated for breast cancer about alternative efficacious treatments. Violation of these requirements constitutes unprofessional conduct and is a crime. Existing law requires the State Department of Health Services to develop a summary of alternative efficacious methods of treatment for breast cancer and requires the Medical Board of California to provide the summary to physicians and surgeons.

Existing law requires every health facility, clinic, and physician and surgeon's office to post a prescribed notice where outpatient breast cancer screening or biopsy is performed, informing patients that the physician and surgeon has a duty to provide a copy of the department's summary to the patient prior to performance of a biopsy. Existing law further requires the physician and surgeon to note on the patient's written record that the summary was so provided.

This bill would, instead, require the physician and surgeon to provide the summary prior to obtaining consent for any breast cancer treatment, other than screening or biopsy. It would permit the physician to choose to provide the summary prior to performance of a screening or biopsy and would require conforming changes to the

notice. The bill would require the department and the Medical Board of California to each post the summary on its Internet Web site.

Existing law requires the department to approve a standardized written summary containing specified information about prostate cancer treatment options, and requires the Medical Board of California to provide the summary to physicians and surgeons.

This bill would require the department and the Medical Board of California to each post the summary on its Internet Web site for public use.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 109275 of the Health and Safety Code
2 is amended to read:

3 109275. (a) Physicians and surgeons shall inform patients
4 being treated for any form of breast cancer of the alternative
5 efficacious methods of treatment by providing the patient with
6 the written summary described in subdivision (c).

7 (b) The failure of a physician and surgeon to inform a patient,
8 by means of a standardized written summary developed by the
9 department on the recommendation of the Cancer Advisory
10 Council in accordance with subdivision (c), in layman's language
11 and in a language understood by the patient, of alternative
12 efficacious methods of treatment that may be medically viable,
13 including surgical, radiological, or chemotherapeutic treatments
14 or combinations thereof, when the patient is being treated for any
15 form of breast cancer, constitutes unprofessional conduct within
16 the meaning of Chapter 5 (commencing with Section 2000) of
17 Division 2 of the Business and Professions Code.

18 (c) (1) A standardized written summary in layman's language
19 and in a language understood by the patient shall be developed
20 by the department with the recommendations of the Cancer
21 Advisory Council, and shall be printed and made available by the
22 Medical Board of California to physicians and surgeons, for the
23 purposes of informing the patient of the advantages,
24 disadvantages, risks, and descriptions of the procedures with
25 regard to medically viable and efficacious alternative methods of
26 treatment for breast cancer as required by subdivision (a).

(2) Commencing no later than January 1, 1995, and every three years thereafter, the department shall review the written summary and shall revise the written summary if the department determines that new or revised information should be included in the written summary, *and shall provide a copy of the revised summary to the Medical Board of California.*

(3) At the next revision of the standardized written summary required by this section, the department shall incorporate all of the following additional information:

(A) Information regarding methods of treatment for breast cancer that are in the investigational or clinical trial stage and are recognized for treatment by the Physician's Data Query of the National Cancer Institute.

(B) Available reference numbers, including, but not limited to, the "800" telephone numbers for the National Cancer Institute and the American Cancer Society, in order for breast cancer patients to obtain the most recent information.

(C) A discussion of breast reconstruction surgery, including, but not limited to, problems, benefits, and alternatives.

(D) Statistics on the incidence of breast cancer.

~~(d) Prior to performance of a biopsy~~ *obtaining consent for any treatment, other than screening or biopsy*, the physician and surgeon shall note on the patient's chart that he or she has given the patient the written summary required by this section. *The physician and surgeon may choose to provide the summary prior to the performance of a screening or biopsy for breast cancer.*

(e) The Medical Board of California shall establish a distribution system for the breast cancer treatment alternatives written summary ~~that is linked to the process of biennial renewal of physician and surgeon licenses~~, *and shall provide a link to its Internet Web site that may be accessed by consumers interested in viewing and obtaining a copy of the summary.*

(f) *The department and the Medical Board of California shall each post the summary on its Internet Web site.*

SEC. 2. Section 109277 of the Health and Safety Code is amended to read:

109277. (a) Every person or entity who owns or operates a health facility or a clinic, or who is licensed as a physician and surgeon and rents or owns the premises where his or her practice is located, shall cause a sign or notice to be posted where a

1 physician and surgeon performs breast cancer screening or
2 biopsy as an outpatient service, or in a reasonably proximate area
3 to where breast cancer screening or biopsy is performed. A sign
4 or notice posted at the patient registration area of the health
5 facility, clinic, or physician and surgeon's office shall constitute
6 compliance with this section.

7 (b) The sign or notice shall read as follows:

8
9 “BE INFORMED”
10

11
12 ~~“If you are a patient being treated for any form of breast~~
13 ~~cancer, or prior to performance of a biopsy~~ *“Prior to obtaining*
14 *consent for any breast cancer treatment, other than screening*
15 *or biopsy, your physician and surgeon is required to provide*
16 *you a written summary of alternative efficacious methods of*
17 *treatment, pursuant to Section 109275 of the California Health*
18 *and Safety Code.” Code. Your physician and surgeon may*
19 *choose to provide the summary prior to the performance of a*
20 *screening or biopsy for breast cancer.”*

21 “The information about methods of treatment was developed
22 by the State Department of Health Services to inform patients
23 of the advantages, disadvantages, risks, and descriptions of
24 procedures.”
25

26 (c) The sign shall be not less than eight and one-half inches by
27 11 inches and shall be conspicuously displayed so as to be
28 readable. The words “BE INFORMED” shall not be less than
29 one-half inch in height and shall be centered on a single line with
30 no other text. The message on the sign shall appear in English,
31 Spanish, and Chinese.

32 SEC. 3. Section 109280 of the Health and Safety Code is
33 amended to read:

34 109280. (a) A standardized written summary in layman's
35 language and in a language understood by patients shall be
36 approved by the department. The department may approve the
37 use of an existing publication from a recognized cancer authority
38 as the written summary. Commencing on January 1, 2003, and
39 every three years thereafter, the department shall review its
40 approval of the use of an existing publication from a recognized

1 cancer authority as the written summary to ensure that the
2 approved written summary comprises timely, new, and revised
3 information regarding prostate cancer treatment options as the
4 department determines is necessary. The written summary shall
5 be printed or made available by the Medical Board of California
6 to physicians and surgeons, concerning the advantages,
7 disadvantages, risks, and descriptions, of procedures with regard
8 to medically viable and efficacious alternative methods of
9 treatment of prostate cancer. Physicians and surgeons are urged
10 to make the summary available to patients when appropriate.

11 (b) The department ~~shall~~ *and the Medical Board of California*
12 *shall each* post this summary on its *Internet* Web site for public
13 use.

14 (c) If the department updates this summary, it shall send the
15 updated summary to the Medical Board of California and *both*
16 *the department and the Medical Board of California shall each*
17 post this updated summary on its *Internet* Web site.